

1 PAUL B. BEACH, State Bar No. 166265  
pbeach@lbaclaw.com  
2 JUSTIN W. CLARK, State Bar No. 235477  
jclark@lbaclaw.com  
3 LAWRENCE BEACH ALLEN & CHOI, PC  
150 South Los Robles Avenue, Suite 660  
4 Pasadena, California 91101  
Telephone No. (818) 545-1925  
5

6 Attorneys for Specially Appearing Defendant  
Sheriff Alex Villanueva  
7

8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10

11 PEOPLE OF LOS ANGELES  
COUNTY WHO ARE BEING  
12 PENALLY CONFINED IN PRE-  
TRIAL DETENTION BECAUSE  
13 OF AND DEPENDENT ON THEIR  
INABILITY TO PAY BAIL, BY  
14 MARK MUNOZ, DANIEL  
SHANNON, AND DEONDRE  
15 SMITH,

16 Plaintiffs,

17 vs.

18 ALEJANDRO VILLANUEVA, and  
TEN UNKNOWN, NAMED  
19 DEFENDANTS, 1-100,

20 Defendants.  
21 \_\_\_\_\_

Case No. 2:22-cv-02538-DMG-JEM

Honorable Dolly M. Gee

**DECLARATIONS OF GREG  
SIVARD, DAVID GRKINICH  
AND ROEL GARCIA IN  
SUPPORT OF SPECIALLY  
APPEARING DEFENDANT  
SHERIFF ALEX  
VILLANUEVA'S OPPOSITION  
TO PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

*[Opposition, Evidentiary Objections,  
and Request for Judicial Notice filed  
concurrently herewith]*

Date: May 27, 2022

Time: 10 a.m.

Ctrm.: 8C  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF GREG SIVARD**

I, Greg Sivard, declare as follows:

1. The following facts are within my personal knowledge, except those matters stated on information and belief and, as to those matters, I believe them to be true. If so called, I could and would testify competently thereto.

2. I am currently employed by the Los Angeles County Sheriff's Department ("LASD" or "Sheriff's Department") and have been so for employed for the last 37 years. I am presently assigned as the Records Manager for the Inmate Reception Center ("IRC").

3. The Records Unit of IRC is responsible for processing and maintaining all booking and release records (among others) for inmates processed into and out of the Los Angeles County jail system. Through my assignment as the Records Manager and prior positions I have had at IRC in the Records Unit, I am very familiar with LASD's policies, procedures, and practices associated with respect to the operation of IRC including, without limitation, the methods and associated procedures used to calculate inmate release dates and all of the various criteria that can impact that process. In addition, I am familiar with the LASD's record keeping at IRC as it relates to booking and release processing. Finally, my experience extends to the operation and functions of the LASD's Automated Justice Information System ("AJIS") and the Replicated Automated Jail Information System, which are the principal computer systems used to process inmate releases and maintain historical data regarding these processes.

4. I am informed and believe that Plaintiffs in this matter have filed a Motion for a Preliminary Injunction ("Plaintiffs' Motion") against the Department based on allegations that they, and other inmates in County jail, are being detained solely because they cannot afford to post bail in violation of their constitutional rights. I offer this declaration to provide details of the Plaintiffs' incarceration

1 history as it relates to their claims; however, it is critical to note that the Sheriff's  
2 Department does not, on its own initiative, set an arrestee's bail, nor does the  
3 LASD have any ability to deviate from the pre-determined bail amounts designated  
4 for each criminal charge. Instead, prior to arraignment, the LASD (and law  
5 enforcement agencies throughout the County of Los Angeles), as required by State  
6 law, follows the judicially approved Bail Schedules, which I understand are being  
7 submitted to the Court in another declaration in this matter.

8       5. I have reviewed information maintained by the IRC regarding the  
9 individuals listed below. The LASD, and specifically, IRC, maintains records  
10 regarding all inmates in County jail, including information related to their booking,  
11 release, criminal charges, and bail as part of the regular course of operations. Some  
12 of this information is maintained in electronic form (in the AJIS and RAJIS  
13 systems), and other information is maintained in an inmate's "Booking Jacket,"  
14 which is a file folder specific to each inmate. Details regarding the Plaintiffs are as  
15 follows:

16           A) For Deondre Smith, he was arrested by the Signal Hill Police Department  
17 on November 3, 2021 based on robbery and assault charges. He was  
18 arraigned on November 5, 2021, and his bail was initially set at \$105,000  
19 for his arrest charge. In addition, Mr. Smith also had a "no bail"  
20 probation violation hold. Mr. Smith was released from Sheriff's custody  
21 on April 22, 2022.

22           A true and correct copy of his Booking Jacket (with certain personal  
23 information redacted) is attached hereto as as Exhibit "A."

24           B) For Daniel Shannon, he was arrested by the Los Angeles Police  
25 Department, West Los Angeles Division, on June 24, 2021 based on a  
26 charge of elder abuse likely to cause harm or death. Mr. Shannon was in  
27 the custody of the LAPD until June 28, 2021. IRC records indicate that  
28

1 Mr. Shannon also had an existing charge under Penal Code Section  
2 245(A)(1) (for assault with a deadly weapon). Mr. Shannon posted bond  
3 on the elder abuse charge on December 27, 2021 and he was released  
4 from Sheriff's custody, and transferred to the custody of the California  
5 Department of Corrections and Rehabilitation on April 22, 2022.

6 A true and correct copy of his Booking Jacket (with certain personal  
7 information redacted) is attached hereto as Exhibit "B."

8 C) For Mark Munoz, he was arrested by the Los Angeles Police Department,  
9 Harbor Division, on October 13, 2021 based on a charge of arson (Penal  
10 Code Section 451(D)) and possession of drug paraphernalia (Health and  
11 Safety Code Section 11364(A)). He was arraigned on October 15, 2021,  
12 before he was LASD custody, and he was remanded to Department  
13 custody with his bail set at \$150,000.

14 A true and correct copy of his Booking Jacket (with certain personal  
15 information redacted) is attached hereto as Exhibit "C".

16 6. The records of the LASD reflect that with respect to the three  
17 Plaintiffs, none of them had the amount of their bail determined or imposed by the  
18 Sheriff's Department. Instead, the amount of their bail was imposed by either the  
19 criminal court itself, or through another law enforcement agency.

20 //

21 //

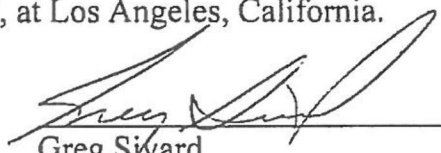
22 //

23 //

24 //

1 I declare under penalty of perjury under the laws of the State of California  
2 that the foregoing is true and correct.

3 Executed this 5th day of May, 2022, at Los Angeles, California.

4  
5   
6 Greg Sivar

**DECLARATION OF DAVID GRKINICH**

I, David Grkinich, declare as follows:

1. The facts set forth herein are based on my personal knowledge or, as specified, upon my information and belief, based on official acts and writings. If called upon as a witness, I could and would testify competently to the facts contained herein under oath.

2. I offer this declaration in support of the opposition by Specially Appearing Defendant Alex Villanueva to Plaintiffs' Motion for a Preliminary Injunction.

3. I am a Bureau Chief of the Probation Department of the County of Los Angeles. I began employment with the County of Los Angeles in 1990, and I have held the rank of Bureau Chief since 2013. Since December 2021, my position has been to oversee the Probation Department's Internal Affairs and Staff Training Operations. From 2018 to 2021, my position was to oversee the Probation Department's Pretrial Services Bureau and to assist with the Adult Field operations. Those duties included responding to issues concerning bail reform, including the operation and planning of pilot programs concerning pretrial detention with the Los Angeles Superior Court and other criminal justice stakeholders.

4. I am informed and believe that the Plaintiffs in this matter allege that within the Los Angeles County jails are between 14,000 and 17,000 inmates who are being detained solely because they cannot afford to post bail, in violation of their constitutional rights. For the reasons set forth below, I respectfully disagree with Plaintiffs' allegations.

5. California has a complex statutory framework with respect to bail. In short, a person arrested and charged with a non-capital criminal offense in California has a constitutional right to be released on bail except in certain

1 circumstances involving threats to public safety. The California Constitution  
2 requires that judges give primary consideration to public safety and the safety of  
3 the victim when making bail decisions. Judges must also consider relevant  
4 factors such as the seriousness of the charge, the person's prior criminal record,  
5 and the probability the person will show up to court.

6       6. Under the California Penal Code, each county superior court must  
7 create and adopt, on a yearly basis, bail schedules for all felonies and  
8 misdemeanors subject to bail. These schedules set the presumptive amount of  
9 bail that a person can post in order to be released from custody in accordance with  
10 state law. Local law enforcement, including sheriffs, does not have discretion to  
11 deviate from the court's bail schedule.

12       7. A person can post bail in California by paying a non-refundable fee  
13 (typically 10% of the bail amount) to a private bail agent, who must pay the full  
14 amount of bail to the court if the person fails to appear at the next court date.  
15 Alternately, the person can deposit the full bail amount directly with the court (in  
16 cash or U.S. or California bonds) or provide the court as security equity in real  
17 property equal to twice the bail amount.

18       8. In Los Angeles Superior Court specifically, the Superior Court sets  
19 the presumptive bail amounts in these schedules (and reviews and revises them  
20 annually) and law enforcement has no discretion to modify those amounts.

21 According to the Court's Local Rule 8.3:

- 22           a. Bail Schedule. The Supervising Judge shall appoint a Bail  
23 Committee within the Criminal Division. The Bail Committee  
24 must prepare and annually revise a Uniform Countywide  
25 Misdemeanor/Infraction Bail Schedule and a Uniform  
26 Countywide Felony Bail Schedule. In preparing and revising the  
27 Felony Bail Schedule, the Bail Committee must consider the  
28 factors specified in Penal Code section 1269b(e). The preparation

1 and distribution of a bail schedule must comply with the  
2 requirements of Penal Code section 1269b(f). The Bail  
3 Committee must submit a bail schedule to the Executive  
4 Committee, and it will be deemed adopted by the judges of the  
5 court when approved by the Executive Committee. A bail  
6 schedule will be effective on the date adopted or as specified by  
7 the Executive Committee. ...

- 8 b. Bail Schedule Deviation During Non-Court Hours. All pre-  
9 arraignment requests to increase or decrease bail, or for an own-  
10 recognizance release, must be made through the Bail Deviation  
11 Program of the Los Angeles County Probation Department. ... A  
12 defendant or defendant's representative may make a request to  
13 decrease bail or for an own-recognizance release by telephoning  
14 (213) 351-0311 between 6:30 a.m. and midnight.
- 15 c. Information to Support a Bail Deviation Request. The Bail  
16 Deviation Program may request certain information in evaluating  
17 a bail deviation request, including, but not limited to: (1) the  
18 name, address, and telephone number of the person seeking the  
19 deviation and relationship to the defendant; (2) name and booking  
20 number of the defendant; (3) charge(s) on which the defendant is  
21 being held; (4) date and time of arrest; (5) address and telephone  
22 number of the jail or station at which the defendant is being held;  
23 (6) date, time and court location for the defendant's arraignment;  
24 (7) the defendant's age, marital status, length of residence in the  
25 community, employment history, and community ties; (8) the  
26 defendant's prior criminal record; and (9) any facts justifying the  
27 requested deviation.  
28



1           9.     Despite the language of the Superior Court’s Local Rule, in practice,  
2 since the implementation of the State of California’s Pretrial Risk Evaluation  
3 Program (“PREP”) discussed below, the bail deviation program has been  
4 operating 24 hours a day, seven days a week.

5           10.    Attached hereto as Exhibits “D” and “E” are true and correct copies  
6 of the Superior Court’s 2022 Felony Bail Schedule and the Superior Court’s 2022  
7 Bail Schedule for Infractions and Misdemeanors.

8           11.    Regardless of the Schedules set forth above, due to the COVID-19  
9 pandemic, on October 20, 2020, the Los Angeles Superior Court issued its Third  
10 Emergency Bail Schedule Order (“EBSO”) which is in effect until further notice  
11 of the Court. The EBSO states that “the bail for all infraction, misdemeanor, and  
12 felony offenses will be set at \$0, with the exception of the offenses listed [in the  
13 Order].” Attached hereto as Exhibit “F” is a true and correct copy of the EBSO.  
14 This means that unless an arrestee is charged with a “serious or violent” crime,  
15 they are cited and released, and do not go to County jail. Therefore, most people  
16 are released by the arresting agency shortly after arrest.

17           12.    In recent years there has been a national movement to reform bail  
18 systems. The County of Los Angeles was an earlier player in this process. For  
19 example, on or about March 8, 2017, the Los Angeles County Board of  
20 Supervisors unanimously voted to initiate the research and analysis of pretrial  
21 practices. As a result, the County formed a Bail Reform Team made up of  
22 numerous County departments, national experts, and a wide range of community  
23 stakeholders to develop a multifaceted program to ensure greater equity in the  
24 pretrial release system while also protecting public safety.

25           13.    Moreover, the Superior Court of the County of Los Angeles applied  
26 to, and in August 2019 was awarded funds from, the Judicial Council of  
27 California to implement the PREP pilot program to expand and expedite pretrial  
28 releases. Attached hereto as Exhibit “G” is a true and correct copy of the

1 Memorandum of Understanding on Pretrial Assessment Interview Confidentiality  
2 for the Los Angeles Pretrial Release Pilot Program between the Probation  
3 Department, District Attorney's Office, Office of the Public Defender, The  
4 Alternate Public Defender, the Los Angeles City Attorney, and the Los Angeles  
5 County Bar Association Indigent Criminal Defense Appointments Program. The  
6 pilot program began at the Clara Shortridge Foltz Criminal Justice Center (the  
7 County's largest arraignment court, in downtown Los Angeles), but has  
8 subsequently been expanded to the Antelope Valley (at the Lancaster courthouse)  
9 as well as South Los Angeles (at the Compton courthouse). In addition, while  
10 this program was originally planned to end in June 2021, it is still operating as a  
11 pilot until June 2022. The State has committed to continued funding of this  
12 program and no substantive changes to the program are anticipated.

13 14. Also, attached hereto as Exhibit "H" is a true and correct copy of the  
14 Memorandum of Agreement between the Superior Court of California, County of  
15 Los Angeles and the County of Los Angeles for the Los Angeles Pretrial Release  
16 Pilot Program.

17 15. PREP, which was implemented on March 23, 2020, is a two-step  
18 program:

- 19 a. Step One: all new eligible arrestees throughout Los Angeles  
20 County are automatically evaluated for pre-arraignment release  
21 by a Duty Magistrate Judge approximately four hours after  
22 booking. Only those arrested with Penal Code § 1270.1 serious  
23 and violent charges or who have Penal Code § 1319.5 pre-  
24 arraignment release exclusions are not eligible, as well as  
25 defendants detained for other reasons such as probation  
26 violations.
- 27 b. Step Two: arrestees who are not cite released by law enforcement  
28 or released pre-arraignment by a judge and who are scheduled for

1 arraignment will be interviewed by the Probation Department for  
2 pretrial release with possible terms and conditions as ordered by  
3 the arraignment judge.

4 16. Attached hereto as Exhibit “I” is a true and correct copy of the  
5 Judicial Council of California’s January 1, 2021 report to the California  
6 Legislature regarding its Pretrial Pilot Program.

7 17. In addition to the above, arrestees who have not yet appeared in  
8 court may request to participate in the Bail Deviation Program (“BD Program”), a  
9 free service operated by the Probation Department’s Pretrial Services Bureau  
10 (“Pretrial Services”). If eligible, Pretrial Services assesses the arrestee’s  
11 suitability for bail deviation by using a risk assessment tool. Based on the  
12 information provided by Pretrial Services, the judicial officer can then reduce the  
13 arrestee’s bail amount, release the arrestee on his or her own recognizance  
14 (“OR”), or otherwise act on the request for a bail adjustment.

15 18. Individuals who remain in custody after arrest must be taken to court  
16 within 48 hours (excluding Sundays and holidays) for arraignment. At  
17 arraignment, arrestees can participate in Pretrial Services’ Own Recognizance  
18 Program (“OR Program”). Pretrial Services uses a risk assessment tool to  
19 evaluate an eligible arrestee’s suitability for OR release, then provides a written  
20 report to the court. The Court makes the final decision whether or not to release  
21 the arrestee on OR.

22 19. In addition to an OR release, arrestees may be released by the Court  
23 into the Supervised Release Program, managed by Pretrial Services. Arrestees  
24 eligible for this program can be released on electronic monitoring (at no expense),  
25 and at pilot courts, they can also be provided services for mental health, drug and  
26 alcohol addiction, and educational needs.

27 20. On March 25, 2021, the California Supreme Court ruled in *In Re*  
28 *Humphrey*, 11 Cal.5<sup>th</sup> 135 (2021), that a criminal defendant’s rights to due

1 process and equal protection could be violated if the trial court denied pretrial  
2 release solely because the defendant was unable to pay bail. The Court held that  
3 trial courts must consider, in addition to public safety, a defendant's ability to pay  
4 and non-monetary alternatives to money bail when setting the amount of money  
5 bail or setting conditions of release.

6 21. With few exceptions, people confined at the Los Angeles County  
7 jails are being held as a result of a remand order by the Superior Court, after they  
8 and their counsel have appeared before a state judicial officer, where they would  
9 have had the opportunity to raise issues concerning bail, including whether or not  
10 they can afford to post bail.

11 I declare under penalty of perjury under the laws of the State of California  
12 that the foregoing is true and correct.

13 Executed on May 6, 2022, at Los Angeles, California.

14   
15 \_\_\_\_\_  
16 David Grkinich  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF CAPTAIN ROEL GARCIA**

I, Roel Garcia, declare as follows:

1. I have personal knowledge of the facts stated herein, except those stated upon information and belief and as to those matters, I believe them to be true. If called upon to testify to the matters herein, I could and would competently do so.

2. I am a sworn peace officer of the Los Angeles County Sheriff's Department ("LASD," "Department" or "Sheriff's Department"), and I have been so for more than 26 years. Over my career in law enforcement, I have worked in various capacities in the Los Angeles County jail system ("County jail"). I am presently assigned as the Captain of the Inmate Reception Center ("IRC") and the Population Management Bureau ("PMB"). The IRC is the facility within the County jail system that is responsible for the processing of male arrestees into and out of the County jail system, as well as the transfer of inmates between housing facilities. IRC's operations include, without limitation, the maintenance and storage of all inmate court records, inmate clothing, inmate property, inmate trust accounts and receiving and processing incoming inmate mail. In addition to station jail personnel, with respect to LASD arrests, IRC personnel are also involved in recording the amount of bail for arrestees prior to arraignment pursuant to the Los Angeles Superior Court Felony or Misdemeanor Bail Schedules ("Bail Schedules"). I am informed and believe that the details of the Bail Schedules, and how they are used by arresting agencies in Los Angeles County, are explained in another declaration submitted in this case.

3. I am informed and believe that the Plaintiffs in this matter allege that within the Los Angeles County jails are between 14,000 and 17,000 inmates who are being detained solely because they cannot afford to post bail, in violation of

1 their constitutional rights. For the reasons set forth below, I respectfully disagree  
2 with Plaintiffs' allegations.

3 4. Arrestees come to the IRC from a variety of places, but in most  
4 circumstances relevant here, they arrive at the IRC after being arrested by one of  
5 many law enforcement agencies in Southern California, and remanded by orders  
6 of the Superior Court. While the Sheriff's Department operates the jails, and also  
7 operates various patrol stations in Los Angeles County, there are more than 50  
8 separate law enforcement agencies that operate within Los Angeles County. Each  
9 of these agencies, such as, for example, the Los Angeles Police Department  
10 ("LAPD"), can be involved in the process of booking an arrestee into the County  
11 jail computer system. This includes the completion of arrest paperwork, before  
12 arraignment, wherein an arrestee's bail is listed based on their criminal charge(s).<sup>1</sup>

13 5. The Sheriff's Department does not set an inmate's bail at any time  
14 (either pre or post arraignment), nor does the LASD have any discretion to  
15 change or deviate from the bail amounts set by the Superior Court for a criminal  
16 charge for which an arrestee is booked. Bail amounts, pre-arraignment, are  
17 dictated by the Bail Schedules. Similarly, once an arrestee is arraigned, the bail  
18 amounts for their criminal charges are dictated by the Superior Court in the  
19 remand order causing the arrestee to come into the Sheriff's custody. Basically,  
20 whether an arrestee is in Sheriff's custody (pre or post arraignment), by law, the  
21 Sheriff's Department has no ability to deviate from bail amounts prescribed by  
22 the Superior Court.

---

23  
24  
25 <sup>1</sup> Local law enforcement agencies have the ability to enter information into the  
26 computer systems used to book arrestees into the Los Angeles County criminal  
27 justice system. For a large percentage of arrestees, they are booked, and their  
28 information entered into relevant computer systems, before they are ever  
transferred to the custody of the LASD. The relevant computer systems track,  
among many other things, each arrestee's various criminal cases, their court  
dates, assigned bail amounts, security classifications, and custody movement.

1           6.     Putting aside the Department's inability to deviate from either pre-  
2 determined bails amounts (per the Court's Bail Schedules) or bail amounts  
3 ordered by the Court, only a relatively small percentage of persons arrested in Los  
4 Angeles County are ever actually housed in the County jail. Meaning, for a very  
5 large percentage of arrestees, their bail amounts are largely irrelevant because  
6 they are released whether they could post bail or not. My understanding is that  
7 typically less than 30% of the total number of arrestees in Los Angeles County  
8 are ever housed in the County jail post-arrest. This is because, as explained  
9 below, there are numerous factors that limit whether an arrestee will be actually  
10 transferred to County jail after arrest, as compared to being cited and released.

11           7.     For example, the COVID-19 pandemic dramatically impacted the  
12 County jail system and its operations, including with respect to bail, and many  
13 operational changes remain in effect today. Indeed, before the COVID-19  
14 pandemic, in order to be housed in the County jail after booking, the subject  
15 charge had to carry a bail amount in excess of \$25,000. If the subject charge  
16 carried a bail of less than \$25,000, the arrestee would be released upon a promise  
17 to appear, or "cite released." In such cases and with minor exception, the arrestee  
18 would not be housed in County jail, and would never come to IRC. Since the  
19 pandemic, however, this amount has been raised by the Department to in excess  
20 of \$50,000 to combat COVID-19 in the jails and increase the potential for social  
21 distancing. Here again, this means that as of the date of this declaration, if an  
22 arrestee's total bail is less than \$50,000, he or she will be cite released and never  
23 housed in County jail.

24 //

25 //

26 //

27 //

28 //



1           8.     Along the same lines as the increase in the bail threshold for  
2 housing, on October 20, 2020, the Los Angeles Superior Court reaffirmed its  
3 “Emergency Bail Schedule Order.” With the exception of serious and violent  
4 crimes, the Emergency Bail Schedule Order requires that “the bail for all  
5 infraction, misdemeanor, and felony offenses will be set at \$0...” This means  
6 that unless an arrestee is charged with a “serious or violent” crime as determined  
7 by statute, they are cited and released, and never assigned to County jail. Indeed,  
8 most arrestees who fall within the parameters of the Emergency Bail Schedule  
9 Order are released by the arresting agency shortly after their arrest and, more  
10 importantly here, they are released before they are ever in the custody of the  
11 Sheriff’s Department.

12           9.     Lastly, for those arrestees who ever come to IRC, they may call (toll  
13 free) the Bail Deviation telephone number staffed by the Probation Department,  
14 who may interview them and follow up with a judicial officer as to whether the  
15 amount of their bail should be reduced or eliminated entirely.

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

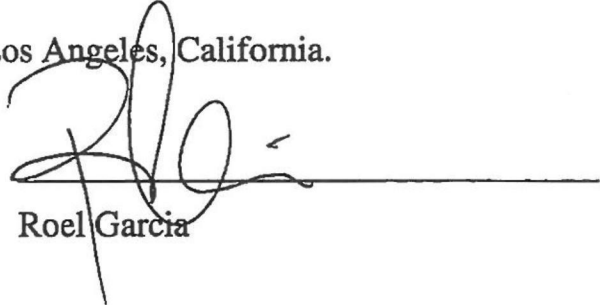
28 //



1 I declare under penalty of perjury under the laws of the State of California  
2 that the foregoing is true and correct.

3 Executed on May 6, 2022, at Los Angeles, California.

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



Roel Garcia